

February 19, 1975

SPEAKER: The chair recognizes Senator Marvel.

SENATOR MARVEL: I wonder if Senator Barnett would yield to a question.

SPEAKER: Do you yield, Senator Barnett?

SENATOR BARNETT: Certainly.

SENATOR MARVEL: As a layman, I see that we are presented with a number of bills from the Judiciary Committee including some of these and I would like to find out what the real gist of all this is. What...would you turn with me to Page 2 of the bill. You are going to get a layman's question but since you are a layman...

SENATOR BARNETT: You've got a layman answering it, too.

SENATOR MARVEL: ...I feel more comfortable about asking the question. What...in the new language it says, in effect, that's it is a burden of proof on the state to show probable cause that such child is within the jurisdiction of the court. Strict rules of evidence shall not apply at the probable cause hearing. What does all that mean?

SENATOR BARNETT: Well, where do you want me to start? First of all, probable cause hearing. A probable cause hearing would be that the child should be held over or should be detained in a longer period of time. If you look into the top part of the old language, if there is reason for child to be held, there has to be a good reason to detain him beyond 48 hours or allow him a hearing as soon as possible to see if he can be released.

SENATOR MARVEL: OK. Now, I think, maybe, I understand that. Now the next sentence talks about strict rules of evidence shall not apply. Why is that language in there.

SENATOR BARNETT: Strict rules of evidence is used, basically, at a trial. This is not a trial. This is just a probable cause hearing as to why he should be detained. In other words, if you want strict rules of evidence, you should possible save those for the trial. In other words, it would be an informal hearing as to why they should detain them.

SENATOR MARVEL: In other words, all of this has to do with pre-trial hearing...

SENATOR BARNETT: Right.

SENATOR MARVEL: ...and is not set up for the purpose of trying to let a possible offender get off without being faced, eventually, with the consequences of his or her action.

SENATOR BARNETT: That's exactly right. It has nothing to do with the trial. It's on holding a child before the trial comes up.

SENATOR MARVEL: One more question. Is there...has there been problems in this area in the past.

SENATOR BARNETT: I would imagine. I can't specifically say of any. We had evidence in our hearings throughout the summer that there was different treatment for different juveniles in different parts of the state and this was made, was one of the bills, one of the package of the bills that will come out, so that we can have more uniform treatment of